CUMULATIVE SUBJECT-INDEX

JANUARY-DECEMBER 1964

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

ADMINISTRATIVE DISCRETION

Page

Marketwide pool ---------- 18

APPLICATION TO DISMISS

Denied ---------- 741

Granted in part ---------- 389

Petition signed by legal representative ---------- 741

ASSIGNEE OF POOL PLANT HANDLERS

Standing to sue ---------- 1

BURDEN OF PROOF

On handler ---------- 383

BUTTERFAT MEASUREMENT

Absence of daily laboratory tests ---------- 1

Conversion tables ---------- 1

BY-PRODUCTS

Fluid skim milk ---------- 1

CLASSIFICATION

Of returns to plant ---------- 1333

Plant movement ---------- 1

COMPENSATORY PAYMENT

On other source skim milk powder ---------- 1441

Rate of ---------- 1441

Validity of ---------- 1441

CONFISCATION

Not established ---------- 1043

COURT ORDER

Remanding proceedings for reopening hearing ---------- 1191

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937—Continued

CREDIBILITY — Page

Of witness ---- 599

DAIRY PRODUCT

Assignment of butterfat as plant loss ---- 1

DEDUCTIONS

By handler of contributions from payments to producers ---- 1043

Properly chargeable ---- 1043

DELEGATION OF AUTHORITY

To Judicial Officer ---- 287

DISCRIMINATION

Marketwide pool ---- 18

DISMISSAL OF PETITION

By stipulation of parties or consent ---- 1, 287, 289, 383, 517, 591, 917, 1191, 1192, 1339, 1458, 1459

To reopen hearing ---- 383

DUE PROCESS

Contract rights ---- 18

Procedural ---- 18

Redetermination of status under order ---- 18

ESTOPPEL

Against Government ---- 591

EVIDENCE

Available but not submitted at original hearing ---- 383

FLUID SKIM DIFFERENTIAL

Applicability of ---- 599

By-product ---- 1

JANUARY-DECEMBER 1964

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937—Continued

FORUM Page

Improper ---------- 515

HANDLER

Deductions of contributions from payments to producers ------ 1043

Determination of ---------- 18

Petition as agent of producers ---------- 515

Underpayment to producers ---------- 1043

HEARING

Reopened on court remand ---------- 1191

INVENTORY RECLASSIFICATION

Basis for charges ---------- 1441

JUDICIAL OFFICER

Authority of ---------- 287

LEHIGH CASE

Distinguishable ---------- 18, 599, 1441

MARKET ADMINISTRATOR

Action on application for producer-handler status ---------- 591

Delegation of power to determine what comprises a plant-----167, 173

Determination of plant ---------- 1

Determination of pool plant handler status ---------- 599

To recompute obligations ---------- 1

Validity of determination of existence of one plant, not two ---167, 173

MARKETWIDE POOL

Computation of amount due ---------- 18

Contractual rights ---------- 18

Definition ---------- 18

Discretion ---------- 18

Discrimination ---------- 18

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937—Continued

MILK PRODUCTS Page

Skim milk powder ---------- 1441

ORBIT OF OPERATIONS

Bakery premises not a plant ---------- 1

ORDER

Need for ---------- 18

ORDER CONSTRUCTION

Purpose of provision ---------- 1043

OTHER SOURCE MILK

Compensatory payment ---------- 1441

Skim milk powder ---------- 1441

PACKAGED MILK AND PRODUCTS

Returns of damaged, etc. paper packages of milk and milk products ---------- 1333

PETITION

Adequacy of ---------- 389

By agent of producers ---------- 515

Signed by legal representatives ---------- 741

To reopen hearing, denied ---------- 383

PIPELINE

Existence of "one plant" where building for cheese making and building for fluid milk processing connected by pipeline ----- 167, 173

PLANT

Commissary and bakery premises not a plant ---------- 1

Determination by market administrator ---------- 1

Orbit of operations ---------- 1

Validity of market administrator's determination of existence of one plant, not two, where buildings connected by pipeline, etc. ---------- 167, 173

JANUARY-DECEMBER 1964

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937—Continued

PLANT LOSS — Page

Assignment of butterfat as plant loss in dairy product 1

POOL PLANT HANDLER

Receipts from dairy farmers 599

Sales in marketing area 599

Standards for inclusion as 599

PRODUCER-HANDLER

Bona fide 18

Definition 18

Effective date of status 591

Equalization of producer-handler milk 18

Original designation as 591

PRODUCER-SETTLEMENT FUND

Claims for refund not claims against United States 1

PRODUCERS

Petition by agent of 515

REAUDIT

Not necessary 1

RECEIPT

Returns to plant not "receipts" 1333

RECONSIDERATION

Petition for dismissed 287

RECORDS

Adequate to establish butterfat content 1

REFUND

Claims for refund against producer-settlement fund not claims against United States 1

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937—Continued

REHEARING — Page

Petition for dismissed ---- 287

REMAND OF PROCEEDINGS

Court order ---- 1191

For reopening hearing ---- 1191

RETURNS TO PLANT

Classification as receipts ---- 1333

SECTION 8c(15)(A) PROCEEDING

Authority of Judicial Officer ---- 287

Limitations of ---- 515

SKIM MILK POWDER

Use of ---- 1441

STANDING TO SUE

Assignee of pool plant handlers ---- 1

Further evidence necessary ---- 741

STATUTORY AUTHORITY

Order minimum pricing ---- 1043

Properly chargeable deductions ---- 1043

TERMINATION OF OBLIGATIONS

Applicability of ---- 599, 1441

UNDERPAYMENT TO PRODUCERS

Deductions by handler of contributions ---- 1043

WAIVER

Of right to minimum price ---- 1043

JANUARY-DECEMBER 1964

COMMODITY EXCHANGE ACT

ALLOCATION OF TRADES — Page

After execution of trades ---- 290

Reimbursement to customers for losses resulting from ---- 290

CHEATING OR DEFRAUDING

Established ---- 743

CUSTOMERS' FUNDS

Misuse of ---- 743

Records of ---- 743

DISMISSAL

Failure to charge ---- 743

DISQUALIFICATION OF REFEREE

Denied ---- 917

EVIDENCE

Hearsay ---- 1193

FICTITIOUS TRADES

Established ---- 747

LOSSES, REIMBURSEMENT OF

To customers, resulting from allocation of trades ---- 290

NONCOMPETITIVE TRADES

Established ---- 293, 747, 1193

Opposite side of customer's trade ---- 293

Time of execution ---- 1193

ORDER

Upon stipulation ---- 37, 747

RECORDS

Failure to keep ---- 743

COMMODITY EXCHANGE ACT—Continued

REFEREE — Page

Disqualification of, denied ---- 917

REGULATIONS

Violation of ---- 1193

REPORTS

Failure to file ---- 517, 616

Falsification of ---- 517

SECTION 4a OF ACT

Violations of ---- 37, 517

SECTION 4b OF ACT

Violations of ---- 290, 293, 743, 747

SECTION 4c OF ACT

Violations of ---- 747

SECTION 4g OF ACT

Full and complete records ---- 743

SECTION 4i OF ACT

Violations of ---- 517, 616

SECTION 1.38 OF REGULATIONS

Violation of ---- 1193

TRADING

Daily trading limit ---- 37, 517

Position limit ---- 517

UNIDENTIFIED ACCOUNTS

Allocation of trades ---- 290

WASH SALE

Established ---- 747

JANUARY-DECEMBER 1964

GRAIN STANDARDS ACT

GRADING OF WHEAT — Page

Failure to follow instructions ---- 1460

Failure to grade separately ---- 1460

LICENSE

Suspension of ---- 1460

PACKERS AND STOCKYARDS ACT, 1921

ACCORD AND SATISFACTION

Failure to prove ---- 933

ACCOUNTING

Incorrect deduction for charges ---- 625

Limitation of action ---- 625

Open account ---- 625

AGENT

Authority of ---- 1232

Liability of agent of disclosed principal ---- 315, 467, 1369, 1375, 1380, 1386, 1391

Liability of agent of undisclosed principal ---- 939, 1204, 1369, 1375, 1386,1391

Of disclosed principal ---- 315, 813

AGENCY

Failure to prove ---- 192, 396

Honoring of drafts ---- 396

Sale or agency transaction ---- 1369, 1375, 1380, 1386, 1391

BANKRUPTCY

Dismissal ---- 540, 752

PACKERS AND STOCKYARDS ACT, 1921—Continued

BONDING REQUIREMENTS Page

Violation of ---- 41, 90, 180, 187, 306, 312, 411, 414, 420, 451, 461, 535, 630, 639, 654, 788, 807, 857, 859, 963, 968, 977, 1098, 1104, 1216, 1363, 1397, 1405, 1409, 1494, 1497, 1502, 1521

Willfulness ---- 639

BREACH OF CONTRACT

Not material ---- 645

CAUSE OF ACTION

Time of accrual of ---- 1489

CHECKS

Insufficient funds ---- 39, 49, 83, 199, 308, 319, 322, 401, 406, 416, 424, 526, 535, 630, 633, 660, 763, 772, 780, 785, 855, 968, 975, 1061, 1106, 1109, 1122, 1216, 1219, 1246, 1365, 1397, 1400, 1462, 1476

Insufficient funds consignment proceeds ---- 297, 424, 463, 633, 809, 816, 971, 1061, 1365

CLEAREE

Liability of ---- 1485

CLEAROR

Liability of ---- 1485

"Margin money" ---- 1235

COMMISSION

Agreement as to amount ---- 1249

Failure to pay ---- 1249

COMPLAINT

Improper service ---- 428

New party ---- 1230

JANUARY-DECEMBER 1964

PACKERS AND STOCKYARDS ACT, 1921—Continued

Page

Sufficiency of ---- 1480
Timely filed as to open account ---- 625
Timely filed at field office ---- 52
Timely filed by informal complaint ----209, 301
Untimely filed ----453, 1230, 1476, 1480, 1489

CONTRACT

Failure to deliver ---- 199

CONTRACT MODIFICATION

Failure to comply with ---- 52, 77

CORPORATE ENTITY

Disregard of ---- 816

COUNTERCLAIM

Untimely filed ---- 1485

CUSTOM

As part of contract ---- 645
Delay in payment ---- 453
To "cut out" livestock ---- 645

DAMAGES

Adjustment above purchase price ---- 467
Consequential ---- 467
Expenses not allowed ---- 959
Expenses of feeding not allowed ---- 979
Failure to deliver ----953, 965
Failure to exchange livestock ---- 77
Failure to furnish vaccination certificates ---- 1213
Failure to prove ---- 802
For cancellation prior to delivery ---- 645

PACKERS AND STOCKYARDS ACT, 1921—Continued

DAMAGES—Continued Page

For difference in quality, not allowed ---------- 213

For misrepresentation of age, kind and quality ----------105, 778, 930, 943, 945, 953

For sick and underweight animals ---------- 213, 301, 642, 666, 923, 927, 930, 945, 949, 959, 965, 979, 1057, 1093, 1116, 1226, 1511, 1516

Immaterial breach of contract ----------796, 802

Limited by rule of avoidable damages ---------- 645

Not awarded after a rescission ---------- 1472

Profit on resale, loss of ---------- 802

Resulting from rejection ---------- 796

Travel expenses not allowed ---------- 105

Value, contract price as ---------- 213

Value of difference between delivered livestock and livestock that was to be exchanged ---------- 77

Value of missing livestock ---------- 65

Value of undelivered animals ---------- 52

Veterinary expenses allowed ----------105, 301, 666, 778, 979, 1057, 1093, 1226, 1511, 1516

DELIVER

Failure to ----------199, 529, 1472

DELIVERY

Cancellation prior to ---------- 645

Rejection by packer for late delivery ---------- 662

DISCLAIMER

Recovery not barred ----------923, 953, 965, 1116, 1226, 1511, 1516

DISMISSAL

Bankruptcy ----------540, 752

Death of complainant ---------- 922

JANUARY-DECEMBER 1964

PACKERS AND STOCKYARDS ACT, 1921—Continued

Page

Death of respondent ---------- 1489

Improper party ---------- 921

Lack of violation by packer ----------429, 662, 1339

Party not subject to act ---------- 69

Solvency ---------- 921

Transaction not subject to jurisdiction ---------- 630

DOWN PAYMENT

Refund of ----------209, 529, 674, 1472

DRAFTS

Drawing without authorization ---------- 526

Honoring of, as proof of agency ---------- 396

EVIDENCE

After close of hearing ---------- 301

FAIR HEARING

Publication of charges not prejudicial to final decision ------1065, 1074

FRAUD

Cause of action based in fraud ---------- 453

Representations ---------- 642

INSOLVENCY

Cease and desist from operating while insolvent ----71, 199, 424, 463, 534, 772, 776, 809, 816, 1061, 1074, 1100, 1109, 1219, 1221, 1246, 1355, 1365

Cease and desist from purchasing while insolvent ---------- 401, 1400

Dismissal of complaint ---------- 921

Suspension of registration while insolvent --83, 111, 297, 319, 409, 416, 422, 424, 448, 463, 633, 753, 772, 785, 790, 809, 816, 971, 1061, 1074, 1100, 1106, 1109, 1122, 1235, 1246, 1355, 1407, 1462, 1464

Suspension of registration while insolvent, held in abeyance ---49, 308, 406, 780, 1243

PACKERS AND STOCKYARDS ACT, 1921—Continued

INTEREST

Not allowed where delay in payment was established custom ---- 453

JOINT VENTURE

Joint venturer's liability for purchase by other joint venturer ---- 96

JURISDICTION

Chain store as packer ---- 1339

Complaint timely filed at field office ---- 52

Party not subject to act ---- 69

Registered dealer in interstate commerce transaction ---- 77

Transaction not subject to ---- 630

Untimely complaint ----1476, 1480, 1489

Untimely counterclaim ---- 1485

MARKET AGENCY

Aiding dealers, financially and otherwise ----59, 62, 1074

Aiding suspended registrant ---- 62

Collecting charges not in tariff ---- 531

Delivery to market agency, failure to establish ---- 101

Employment of dealers ---- 92

Failure to charge and collect or to follow rate schedule --71, 1074, 1221

Failure to remit additional proceeds to consignors ---- 45

Failure to remit "margin money" ---- 1235

Failure to verify accuracy of representations ---- 620

False invoices ---- 59, 86

Falsifying records ---- 766

Improper accounting, established ---- 101

Incomplete scale tickets ---- 1074

Insufficient funds consignment proceeds checks --297, 424, 463, 633, 809, 816, 971, 1061, 1365, 1464

Liability to unpaid vendor of joint venture consignor ---- 96

Minimum price guarantee ---- 1499

JANUARY-DECEMBER 1964

PACKERS AND STOCKYARDS ACT, 1921—Continued

MARKET AGENCY—Continued Page

Mixup of or missing livestock ---- 65

Purchasing livestock out of consignment for speculation ----45, 92, 633, 766

Refund of charges ----180, 1499

Selling consigned livestock to employees, etc. ----45, 59, 92, 180, 669, 756, 759, 1365

Unauthorized deductions ---- 92

Untrue or incomplete accounts of sale or purchase ----45, 92, 180, 633, 766, 1074, 1100, 1208, 1221, 1365

Utilizing services of dealers ---- 180

MISREPRESENTATION

Failure to establish ---- 1507

Failure to verify accuracy of representations ---- 620

False weighing ----185, 472, 794, 1125, 1237, 1349, 1359, 1361, 1492

Of age, kind and quality ----105, 199, 209, 213, 301, 642, 666, 778, 923, 927, 930, 943, 945, 949, 953, 959, 965, 979, 1057, 1093, 1116, 1226, 1507

Of details of purchase or sale ----650, 753, 1504

OFFICERS

Jurisdiction over officers of packer ---- 1400

PACKER

Area ---- 429

Below kill cost ---- 429

Cease and desist from failing to pay when due ----401, 1219, 1400

Cease and desist from purchasing while insolvent ----401, 1219, 1400

Definition ---- 1339

Discriminatory pricing ---- 429

Dismissal, lack of violation ----429, 662, 1339

Honest belief of contract breach ---- 662

PACKER—Continued Page

Insufficient funds checks ----------401, 1219, 1400
Intracompany transfers ---------- 429
Jurisdiction, chain store as packer ---------- 1339
Late delivery ---------- 662
Price cutting or differences ---------- 429
Records, failure to retain ---------- 429
Records, full description ---------- 401
Records, telegrams as ---------- 429
Rejection for late delivery ---------- 662
Rejection of discolored turkeys ---------- 1339
Sales unit sales ---------- 429
Spread between good and choice beef ---------- 429
Telegrams, as records ---------- 429
Unfair and deceptive practice not established ---------- 1339

POULTRY

Rejection by packer of discolored turkeys ---------- 1339

PRESS RELEASE

Publication of charges not prejudicial to final decision ------1065, 1074

PRINCIPAL

Liability of disclosed principal ----------467, 813, 1380
Liability of undisclosed principal ---------939, 1369, 1375, 1386, 1391

PROCEDURE

Failure to receive complaint ---------- 428

PUBLICATION OF CHARGES

Not prejudicial to final decision ----------1065, 1074

PURCHASE PRICE

Cease and desist from failing to pay ----------49, 199, 308, 772, 785

JANUARY-DECEMBER 1964

PACKERS AND STOCKYARDS ACT, 1921—Continued

Page

Cease and desist from failing to pay when due ------83, 319, 322, 406, 416, 422, 424, 448, 526, 535, 630, 633, 656, 660, 763, 780, 790, 855, 975, 1061, 1106, 1109, 1122, 1216, 1219, 1243, 1246, 1355, 1365, 1397, 1400, 1407, 1462, 1468, 1470, 1476, 1494

Failure to pay ------57, 189, 192, 196, 207, 315, 524, 538, 813, 1230, 1507

Failure to pay in full ------ 1482

RATES AND CHARGES

Continuation of ------104, 522, 653, 765, 1352, 1357, 1404, 1523

Dismissal of rate proceeding ------180, 395, 855

Modification of ------43, 104, 310, 784, 957, 958, 1242, 1351, 1523

RECONSIDERATION

Denied ------1114, 1119

Dismissal of petition for ------ 184

RECORDS

False entries ------650, 794, 1125, 1237, 1349, 1359, 1361

Full description of transactions ------45, 49, 59, 71, 83, 86, 92, 180, 199, 297, 401, 406, 416, 633, 753, 756, 759, 766, 772, 785, 809, 816, 968, 971, 1074, 1100, 1106, 1109, 1208, 1221, 1243, 1246, 1355, 1359, 1409, 1476

Packer, failure to retain ------ 429

Telegrams as ------ 429

REFUND

Failure to ------ 199

Of down payment ------209, 529, 674, 1472

REGISTRATION

Extension of effective date of suspension ------ 213

Suspension of, held in abeyance ------49, 308, 406, 780, 1243

PACKERS AND STOCKYARDS ACT, 1921—Continued

REGISTRATION REQUIREMENTS — Page

Violation of ---- 180, 451, 535, 630, 807, 1098, 1363, 1409

REHEARING AND REARGUMENT

New evidence merely cumulative ---- 1114, 1119

Petition for denied ---- 1114, 1119

REJECTION

By packer for late delivery ---- 662

By packer, of discolored turkeys ---- 1339

Damages resulting from ---- 796

Discolored turkeys ---- 1339

Immaterial breach of contract ---- 796

Justified ---- 674

Prior to delivery ---- 645

Unjustified ---- 645, 796

REOPENING

After default ---- 428

RESCISSION

Damages not awarded after a rescission ---- 1472

Established ---- 529

Failure to establish ---- 979

For failure to deliver ---- 1472

Refund of down payment ---- 209, 674

SHIPPERS' PROCEEDS

Attempted misuse of ---- 816, 971

Deposits to include amounts overdue from customers ---- 1065, 1074

Establishment of account ---- 49, 71, 86, 111, 180, 297, 424, 463, 766, 776, 809, 816, 971, 1061, 1065, 1074, 1100, 1208, 1221, 1365, 1409, 1464

JANUARY-DECEMBER 1964

PACKERS AND STOCKYARDS ACT, 1921—Continued

Page

Failure to account ---------- 816

Failure to deposit promptly in ---------- 766

Failure to remit ----------790, 809, 816

Failure to remit when due ----------297, 971, 1061

Misuse of ---------- 49, 71, 111, 297, 424, 463, 766, 776, 790, 809, 816, 1061, 1065, 1074, 1100, 1208, 1221, 1365, 1409, 1464

Misuse of by extending credit ----------1065, 1074

STATUTE OF LIMITATIONS

Where cause of action is based in fraud ---------- 453

STOCKYARD SERVICE

Death of animal ---------- 391

Duty discharged by stockyard company by delivery to pen of driving agency ---------- 65

Failure to verify accuracy of representations ---------- 620

Missing livestock ---------- 671

Movement of animals to other pens by traders ---------- 671

Reasonable facilities ---------- 391

Stockyard not negligent ---------- 671

Tariff for bedding materials ---------- 391

Watering and feeding ---------- 391

SUPPLEMENTAL ORDER

After insolvency ----------938, 1354, 1467, 1484

Bonding requirements ----------49, 318, 816, 922, 956, 1396

SURETY

Claim against debtor's surety as ground for delay ---------- 1482

UNDERPAYMENT

On basis of false weights ---------- 1125

PACKERS AND STOCKYARDS ACT, 1921—Continued

UNDISPUTED AMOUNT — Page

Payment of does not bar recovery of disputed amount ---- 933

UNTIMELY FILING

As to new party ---- 1230

Complaint ---- 453, 1476, 1480, 1489

Counterclaim ---- 1485

WEIGHING

False weights ---- 185, 472, 794, 1125, 1237, 1349, 1359, 1361, 1492

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

ABANDONMENT TO CARRIER

Proper ---- 558

ACCEPTANCE

"As is" sale ---- 862

By act of dominion ---- 364, 862

By diversion ---- 1148

By partial unloading ---- 1166

By unloading ---- 1417, 1577

By resale ---- 224

Liability for adjusted price ---- 908, 1253

Liability for contract price ---- 120, 345, 349, 364, 367, 492, 496, 504, 541, 545, 552, 709, 717, 722, 862, 984, 992, 1128, 1138, 1148, 1155, 1261, 1280, 1283, 1296, 1303, 1417 1283, 1296, 1303, 1417, 1537, 1545, 1577, 1581

Liability for excess culls ---- 120

Liability for excess produce accepted ---- 325

Liability for reasonable value ---- 984, 1138

Untimely notice of rejection ---- 146, 1283, 1537, 1570

JANUARY-DECEMBER 1964

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

ACCORD AND SATISFACTION — Page

- Bona fide dispute, absence of ---- 231
- Established ---- 220, 1001
- Estoppel of claim ---- 1001
- Failure to prove ---- 115, 231, 330, 717
- Return of uncashed check ---- 220
- Tender not in compliance with agreement ---- 115

ACCOUNTING

- Errors ---- 558
- Improper ---- 680
- Proper ---- 237
- Shortage ---- 558

ADJUSTMENTS OR ALLOWANCES

- Amount of ---- 567
- Conditioned upon prompt payment ---- 1545
- Failure to allege properly ---- 552
- Failure to establish ---- 1581
- Liability for adjusted price ---- 1253
- Shrinkage ---- 567
- Unconditional ---- 1253

ADVANCE

- Failure to pay guaranteed advance in full ---- 878
- Principal liable to agent ---- 241

AGENT

- Apparent authority of ---- 1564
- Failure to disclose joint ownership ---- 1025
- Failure to disclose ownership ---- 1019

AGENCY

- Burden of proof ---- 253, 256, 268

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

Page

Failure to prove agency by estoppel ---------- 253, 256, 268

Not established ---------- 150, 253, 256, 268, 278

ASSIGNMENT

Untimely ---------- 722

BANKRUPTCY

Discretion of Secretary to proceed ---------- 1303

Dismissal ---------- 219, 1144, 1415

Stay order, pending Chapter XI bankruptcy proceeding ---------- 1412

BILLING

Advise or open ---------- 709

BROKER

Agreement to collect and remit ---------- 496

Authority of ---------- 1583

Failure to disclose joint-ownership ---------- 1025

Failure to disclose ownership ---------- 1019

Guaranteed price, consignment contract ---------- 1008

Liability of ---------- 1537

Misrepresentation ---------- 1008

Not established ---------- 231

Not party in interest ---------- 722

BROKERAGE

Dismissal of counterclaim for overcharge ---------- 231

Double brokerage ---------- 558

Failure to pay promptly ---------- 680

Not allowed ---------- 120

Payable to others ---------- 558

JANUARY-DECEMBER 1964

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

BURDEN OF PROOF — Page

Applicability of state licensing law ---- 1171

CAUSE OF ACTION

Time of accrual of ---- 1272, 1554

COLLECT AND REMIT

Not a guarantee of payment ---- 496

COMMISSION

Double commission ---- 1272

Payable to others ---- 558

COMPLAINT

Failure to file amended complaint ---- 1278

Untimely or timely filed ---- 869, 1554

CONDITION ON ARRIVAL

On basis of delayed inspection ---- 146

CONSIGNMENT

Distinguished from purchase ---- 237, 576, 1272, 1289

Duty of consignee ---- 1554

Failure to account promptly ---- 680

Failure to account truly ---- 144, 680, 1012

Failure to remit proceeds ---- 144

Failure to remit proceeds promptly ---- 680, 690, 1012

Guaranteed price ---- 1008

Liability of consignor for freight charges ---- 1554

Suitable shipping condition ---- 878, 1008

CONTRACT

"As is" sale ---- 862

Established ---- 341

Evidence of ---- 1428

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

Page

Failure to establish ---------- 984, 1138
Failure to establish breach ---------- 1160
Guaranteed price in consignment contract ---------- 1008
Joint account ---------- 1160
Sale or consignment ---------- 237, 576, 1272, 1289
Suitable shipping condition in consignment contract ---------- 1008
Weight specifications of lettuce ---------- 1160

CONTRACT DESTINATION

Unnecessary to decide ---------- 345

CONTRACT PRICE

Liability for, where allowance recovered from carrier ---------- 150
Market value ---------- 330

CONTRACT TERMS

Buyer's approval ---------- 873
Failure to establish ---------- 137
Field grading ---------- 330
Merchantable quality ----------1132, 1138, 1145, 1577
Option to reject ---------- 873
Potatoes for chipping ---------- 492
Terminal quality ---------- 1175

CONTRACT VOLUME

How determined ---------- 330

COOLING

Failure to establish improper precooling ---------- 1545

COUNTERCLAIM

Dismissal of, for brokerage overcharge ---------- 231
Dismissal of, party not subject to license ---------- 146

JANUARY-DECEMBER 1964

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

CREDIBILITY OF WITNESSES — Page

Findings of presiding officer ---- 268

DAMAGES

Attorney's fees ---- 1554

Breach of warranty as to grade ---- 1570

Breach of warranty of suitable shipping condition ---- 1289

Expense of repackaging ---- 1530

Failure to apply sprout inhibitor properly ---- 1148

Failure to establish ---- 115, 224, 325, 330, 337, 349 367, 558, 717, 992, 1148, 1549

Failure to deliver ---- 337

Failure to load and ice properly ---- 898

Failure to order shipment ---- 127, 1300, 1416, 1530

Failure to meet grade or description ---- 353, 357

Failure to prove damages resulting from breach of suitable shipping condition ---- 1296

Freezing injury ---- 892

Freight charges ---- 1554

Improper instructions to carrier ---- 481

Late delivery ---- 992

Market value ---- 1019, 1025

Profit made by "agent" ---- 1019, 1025

Resale ---- 1549

Resulting from improper container ---- 1537

Resulting from late shipment ---- 1583

Resulting from rejection ---- 127, 1525, 1537

Special damages ---- 337

Special or general, failure to establish ---- 1148

Time of resale ---- 1283

Unpaid storage charges ---- 1416

Value of one growers' produce over another's ---- 349

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

DATE OF SHIPMENT — Page

Breach ---- 1583

DELIVERED SALE

Breach of contract terms ---- 353

Breach of contract terms not established ---- 134, 545

Freezing injury ---- 892

Grade at destination ---- 120

Grade at other than contract destination ---- 134

DELIVERY

Breach of contract terms ---- 349

Failure to prove ---- 1265

From particular grower ---- 349

Late ---- 984, 992

Of excess produce ---- 325

DESTINATION

For further diversion ---- 898

DISMISSAL

Accord and satisfaction ---- 220

Bankruptcy ---- 219, 1144, 1415

Choice of forum ---- 897

Death of respondent ---- 1288

Failure to prove agency ---- 253, 268, 278

Failure to prove sale ---- 237

Of counterclaim for brokerage overcharge ---- 231

Of counterclaim, party not subject to license ---- 146

Terms of joint account agreement not established ---- 581

Transaction not in interstate commerce ---- 218

DIVERSION

By seller of accepted car ---- 1166

JANUARY-DECEMBER 1964

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

Page

Improper instructions ---- 481

Resulting in acceptance ---- 1148

EMPLOY OR EMPLOYMENT

Prohibition of employment ---- 555

EXPENSES

Repacking or re-sorting ---- 567, 1530

FAILURE TO DELIVER

Damages ---- 337

Not established ---- 1001

FAILURE TO PAY

Consignment proceeds ---- 144

Publication of facts ---- 715

Purchase price ---- 690

FAILURE TO PAY PROMPTLY

Brokerage ---- 680

Consignment proceeds ---- 680, 690, 1012

Purchase price ---- 680, 690

F.O.B. ACCEPTANCE FINAL

Suitable shipping condition ---- 481

Warranty at shipping point ---- 481

F.O.B. SALE

Breach of warranty of grade ---- 224

Contract grade at time of shipment ---- 224

Express warranty of good condition on arrival ---- 1257

FORUM

Choice of ---- 897

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

FREEZING INJURY — Page

Established — 892

Failure to establish — 1280

GUARANTEE

By broker of payment — 496

GUARANTEED ADVANCE

Failure to pay in full — 878

Not established — 241

GUARANTEED PRICE

In broker's confirmation — 1008

INSPECTION

Too remote — 345

INTERSTATE COMMERCE

In contemplation of — 1535

Jurisdiction — 495, 508, 553, 1278, 1280, 1425, 1535

Lack of — 218

JOINT ACCOUNT

Failure to prove cancellation — 571

Loss — 1160

Terms not established — 581

JOINT ACCOUNT CONTRACT

Established — 571

Joint loss — 571

JOINT VENTURER

Applicability of state licensing law — 1171

JANUARY-DECEMBER 1964

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

JURISDICTION — Page

Bags, wire ties and grading equipment ---- 717
Bankruptcy, discretion of Secretary to proceed ---- 1303
Coconuts ---- 495
Interstate commerce ---- 218, 495, 508, 553, 1278, 1280, 1425, 1535
Lugs for grapes ---- 545
Party not subject to license ---- 146
Perishable agricultural commodities ---- 495
Untimely assignment ---- 722
Untimely or timely filed complaint ---- 869, 1554

LICENSE

Applicability of state licensing law ---- 1171
Denial of application for ---- 361
Party not subject to ---- 146
Revocation of ---- 144, 991, 1153, 1561
Suspension of ---- 555, 680, 690, 886, 1012

LOADING

Proper or improper ---- 1417

MARKET VALUE

Market news reports ---- 330

MERCHANTABILITY

Breach of ---- 1132, 1145
Failure to establish breach ---- 1138, 1577
Lettuce ---- 1132, 1145
Watermelons ---- 1138, 1577

MISREPRESENTATION

By a broker ---- 1008
For a fraudulent purpose ---- 1008

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

Page

Of grade, quality and character ---- 1426

Of grade, quality or count ---- 886

Repeated and flagrant violations of act ---- 1426

NEGLIGENCE

Choice of carrier ---- 481

Of buyer in not locating and unloading ---- 501

NOVATION

Established ---- 869, 904

Failure to establish ---- 249, 345, 984, 1583

Failure to establish consignment provision ---- 908

OPINION

Taste ---- 545

PACKAGING

Jurisdiction ---- 545, 717

Lugs for grapes ---- 545

Potato bags and wire ties ---- 717

Size of tomato containers ---- 1537

PAYMENT

Allocation of ---- 246, 248, 495, 869

Guaranteed advance ---- 878

Promissory note as ---- 231, 869, 1268

PRESIDING OFFICER

Credibility of witnesses ---- 268

PRICE ADJUSTMENT

Immaterial where allowance recovered from carrier ---- 150

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

PRINCIPAL Page

Action by undisclosed principal ---- 709

Liability to agent for return of advance ---- 241

PROMISSORY NOTE

As payment ---- 869, 1268

Conditional payment ---- 231

Extinguishment of debt ---- 869, 1268

Not accord and satisfaction ---- 231

PUBLICATION OF FACTS

For failure to pay ---- 715

For misrepresentation ---- 1426

Repeated and flagrant violations ---- 1426

QUALITY

Person to judge under contract ---- 1530

RECEIPT

Of unlocated produce in railroad car ---- 501

RECONSIDERATION

Petition for dismissed ---- 143, 509, 566, 706, 912 990, 1260, 1306, 1535

Prior order amended ---- 336

Modification on, or granted ---- 336, 488

RECORDS REQUIREMENTS

Violation of ---- 680

REJECTION

Damages for ---- 127, 1525, 1537

Failure to order shipment ---- 127, 1300

Not established ---- 492

Notice of ---- 146, 862, 1166, 1537

REJECTION—Continued Page

Notice of, untimely ---- 146, 1283, 1537, 1570

Option to reject ---- 873

With reasonable cause ---- 353, 873, 996, 1132, 1145, 1257

Without reasonable cause ---- 127, 882, 898, 1175, 1300, 1525, 1537

REOPENING

After default, denied ---- 142

After default, granted ---- 1414, 1593

Failure to file motion to reopen after default ---- 1279

REPEATED AND FLAGRANT VIOLATIONS

Failure to pay ---- 715

Finding of ---- 715, 1426

Misrepresentation ---- 1426

Publication of facts ---- 715, 1426

REPRESENTATION

Percentage of decay ---- 1261

RES JUDICATA

County court dismissal ---- 706

RESALE

Prompt and proper ---- 127, 357, 1283, 1525, 1549, 1570

RESCISSION

By act of dominion ---- 372

Failure to establish ---- 137, 1535

Mutual ---- 372, 1564

Necessity for notice of resale where failure to order delivery ---- 1535

RESPONSIBLY CONNECTED

Officer ---- 555

Stock ownership ---- 555

JANUARY-DECEMBER 1964

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Con.

RIPENESS — Page

Failure to establish overripe ---- 1545

SALE

"As is" ---- 862

Distinguished from consignment ---- 237, 576, 1272, 1289

Failure to prove ---- 237

STANDING TO SUE

Broker ---- 722

STATE LICENSING LAW

Applicability of ---- 1171

Bar to recovery ---- 1171

STATUTE OF FRAUDS

Applicability of ---- 706

STAY ORDER

Pending Chapter XI bankruptcy proceeding ---- 1413

Vacated ---- 1412

STORAGE CHARGES

Contingent ---- 873

SUITABLE SHIPPING CONDITION

Applicability of warranty ---- 137, 541, 878, 882

Cantaloups ---- 341, 1175

Consignment ---- 878, 1008

Effect of delay in transit ---- 541

Failure to establish breach ---- 224, 249, 264, 341, 1128, 1155, 1175, 1428, 1537

"Good delivery" standards ---- 882

Lettuce ---- 882, 1296

Onions ---- 1155

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930—Continued

Page

Oranges ---- 1289
Potatoes ---- 224, 367
Strawberries ---- 249
Tomatoes ---- 264, 1537
Watermelons ---- 1428

TRANSPORTATION SERVICE AND CONDITIONS

Abnormal ---- 137, 541, 882, 898, 1128
Delay in transit ---- 541, 882, 898, 1128

UNDISPUTED AMOUNT

Order for ---- 236, 507, 705, 714, 911, 1563

UNTIMELY

Assignment ---- 722

UNTIMELY OR TIMELY FILING

Complaint ---- 869, 1554

WARRANTY

As to taste ---- 545
Express ---- 996
Failure to establish ---- 367, 492, 1132, 1145, 1155
Failure to establish as to size and sweetness ---- 545
Good condition on arrival ---- 1257
Guaranteed price in consignment contract ---- 1008
Hard to firm ---- 996
Potatoes for chipping ---- 492

WEIGHT SPECIFICATIONS

Lettuce ---- 1160
On bill of lading ---- 1160